

Docket No. CH919980004US1  
(590.059)

**REMARKS**

In the Office Action dated April 19, 2007, pending Claims 1-20 were rejected and the rejection made final. Claim 5 stood objected to. Claims 1, 7, 10, 13 and 16 are independent claims; the remaining claims are dependent claims. In response, Applicants filed an Amendment After Final, amending claims 1, 4, 16, 17 and 18 to address various informalities and rejections of the claims.

The Examiner issued an Advisory Action on September 19, 2007, indicating that the claim amendments submitted in the Amendment After Final would be entered for the purposes of appeal, the rejections under 35 U.S.C. 101, 112 were overcome by those amendments, but the rejections under 35 U.S.C. 103 were being maintained. Applicants have submitted herewith a Request for Continued Examination and an Amendment.

Applicants and the undersigned are most grateful for the time and effort accorded the instant application by the Examiner. Applicants' representative conducted a telephone interview with the Examiner on April 18, 2007. The claims and the prior art were discussed, however, no agreement was reached.

The Office is respectfully requested to reconsider the rejection present in the outstanding Office Action in light of the foregoing amendments and the following remarks. Applicants have amended the independent claims in this application. Applicants are not conceding in this application that those claims are not patentable over the art cited by the Examiner, as the present claim amendments are only for facilitating expeditious prosecution. Applicants respectfully reserve the right to pursue these and

Docket No. CH919980004US1  
(590.059)

other claims in one or more continuations and/or divisional patent applications.

Applicants specifically state no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Applicants incorporate by reference the Remarks submitted with the Amendment After Final, submitted on August 20, 2007, as those remarks continue to remain applicable to the outstanding issues in this case. Applicants briefly point out issues addressed in that paper and provide further remarks as to the Advisory Action issued by the Examiner. Applicants also note that the Examiner has indicated that the section 101 and 112 rejections and the objection to claim 5 have been withdrawn in light of the Amendment After Final, as reflected in the most recent Advisory Action.

#### **Claim Objections**

Claim 5 stands objected to as having an improper status indicator. The status indicator in the previous Amendment indicated "Currently Amended" in order to indicate that "[18]" had been removed from the claim. Now the status indicator is "Previously Presented" to indicate that no further changes have been made to the claim. Applicants respectfully request reconsideration and withdrawal of this objection. Applicants note that this issue was satisfactorily addressed in the Amendment After Final incorporated by reference above.

Docket No. CH919980004US1  
(590.059)

**Rejections under 35 U.S.C. §§ 101, 112**

Claims 1-6 and 16-20 stand rejected under 35 U.S.C. §§ 101, 112 because the claimed invention is not supported by either a specific and substantial asserted utility or a well established utility, and because one skilled in the art clearly would not know how to use the claimed invention, respectively.

In an effort to facilitate expeditious prosecution, Applicants have, as suggested by the Examiner, amended claims 1 and 16 strike the word “improving”, thereby removing the offending language. Applicants respectfully request reconsideration and withdrawal of these rejections.

Claim 18 stands rejected under 35 U.S.C. § 112, ¶ 2, as lacking sufficient antecedent basis for the claim limitation “the remote site”. Claim 18 has been amended to change its dependency. Applicants respectfully request reconsideration and withdrawal of this rejection. Applicants note that the above issues were satisfactorily addressed in the Amendment After Final incorporated by reference above.

**Section 103 Rejections**

Claims 1 and 16 stand rejected under Section 103(a) as being unpatentable over U.S. Patent No. 5,592,375 to Bardwell C. Salmon et. al. (hereinafter “Bardwell”). Claims 2-5, 7, 10 and 13 stand rejection under Section 103(a) as being unpatentable over Bardwell in view of EP A 0 854 462 to Hiroya et al. (hereinafter “Hiroya”). Claims 6, 8, 9, 11, 12, 14, 15 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bardwell, Hiroya, and further in view of O’Mahony, *Secure Electronic Transactions*

Docket No. CH919980004US1  
(590.059)

(hereinafter "O'Mahony"). Claims 19 and 20 stand rejected based on the Office Action mailed October 2, 2006. Reconsideration and withdrawal of these rejections are hereby respectfully requested.

As the Examiner is aware, to establish a *prima facie* case of obviousness under 35 U.S.C. § 103 there must be a suggestion or motivation to modify a reference or combine references; a reasonable expectation of success in making the modification or combination; and the prior art must teach or suggest all the claim limitations. *See In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Applicants respectfully submit that the Office has failed to establish such a *prima facie* case.

As best understood, Bardwell does not appear to be directed to providing secure payment methods, including the differential protocol method contemplated by the instantly claimed invention, by differentially employing security protocols. Rather, Bardwell appears to be directed to a system for organizing and presenting multimedia information related to goods or services, entered by sellers into a database, the information being viewable by buyers. *Bardwell*, Abstract. While the database of Bardwell is concerned with the available bandwidth in the various network configurations, Col. 1, lines 50-55, it is not concerned with the processing power of the components of the network in terms of choosing a protocol to ensure secure communications and payments. This stands in stark contrast to the instantly claimed invention.

Applicants respectfully submit that the Examiner, in the Advisory Action, misconstrues the Applicants' remarks regarding the teachings of Bardwell with respect to

Docket No. CH919980004US1  
(590.059)

the database. Applicant is not submitting that there is no database taught in Bardwell.

Rather, Applicant is pointing out that Bardwell does not disclose use of a trusted third party, verified by way of a certification authority (i.e., nowhere does Bardwell teach or suggest the "database", or any other third party, has been or should be certified as a trusted third party by a certification authority). *Specification*, page 8, lines 14.

Moreover, nowhere does Bardwell contemplate having a trusted third party connect with the merchant/seller to conduct a payment transaction, using a more secure payment protocol, such as SET, on behalf of the user (i.e. buyer). *Specification*, page 6, lines 24-30. In fact, Bardwell barely addresses potential payment schemes, leaving them unclear and ill-defined, and certainly Bardwell does not teach or suggest the use of a dual protocol method as in the instantly claimed invention. *Bardwell*, Col. 13, lines 60-67.

To summarize, in accordance with at least one presently preferred embodiment of the invention, a commercial relationship is established by a user with a trusted third party, at least to the extent that that user is aware that he is making a payment which will be redirected by to a trusted third party, who is a trusted server which receives and processes requests for information about products or services on an insecure network such as the Internet. Security in payments is improved by splitting the payment into two parts: 1) that associated with the network link between the user and the trusted third party (e.g. utilizing a communication protocol) and 2) that associated with the network link between the trusted third party and the merchants (e.g. utilizing a payment protocol).

*Specification*, page 6. Security protocols are selected, at least in part, on the basis of the computer resources which may be expected to be available in each of the network links.

Docket No. CH919980004US1  
(590.059)

As shown above, Bardwell fails to meet the limitations of the independent claims of the instant invention, nor is there any suggestion in Bardwell of the present invention. Similarly, neither Hiroya, O'Mahony, nor any other art cited by the Examiner, overcome the deficiencies of Bardwell. Thus, the claimed invention is patentable over the applied references and the state of the art.

Solely in an effort to facilitate expeditious prosecution of the instant application, Applicants have amended the independent claims to recite, *inter alia*, "wherein the communication protocol is utilized to reduce a required processing power necessary between the user and the trusted third party." Claim 1. This claim language is intended to clarify that the processing power of the user's device is a limiting factor that impacts the utilization of the security protocols that are employable. This problem is overcome by the novel combination of the two step communication linkage for conducting online transactions, discussed above.

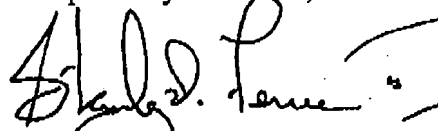
In view of the foregoing, it is respectfully submitted that independent Claims 1, 7, 10, 13 and 16 fully distinguish over the applied art and are thus allowable. By virtue of their dependence, it is thus also submitted that Claims 2-6, 8-9, 11-12, 14-15, and 17-20 are also allowable at this juncture.

Docket No. CH919980004US1  
(590.059)

**Conclusion**

In summary, it is respectfully submitted that the instant application, including Claims 1-20, is presently in condition for allowance. Notice to the effect is hereby earnestly solicited. If there are any further issues in this application, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



Stanley D. Ference III  
Registration No. 33,879

**Customer No. 35195**  
**FERENCE & ASSOCIATES LLC**  
409 Broad Street  
Pittsburgh, Pennsylvania 15143  
(412) 781-8400  
(412) 781-9292 - Facsimile

Attorneys for Applicants